

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-210946

DATE: March 22, 1983

MATTER OF: Exact Level & Tool Mfg. Company, Inc.

DIGEST:

Protest filed with GAO more than 10 working days after protester receives notice that same protest, initially filed with contracting agency, has been denied is untimely and will not be considered on the merits.

Exact Level & Tool Mfg. Company, Inc. protests an award made to Schultes Manufacturing Company by the General Services Administration's Federal Supply Service under solicitation No. FTP-BR-F0150. We dismiss the protest.

Exact was notified by telephone on January 14, 1983, that an award of three items had been made to Schultes; by letter of January 18, 1983, Exact protested to the agency, alleging that Schultes did not meet the Federal specifications for levels set forth in the solicitation.

By letter of February 2, 1983, received by Exact on February 7, the agency denied the protest, stating that Schultes' bid sample had been inspected and found to comply with specifications. By letter of February 18, 1983, postmarked on February 22 and received here on March 1, Exact protested the award.

We will not consider the merits of the protest. Our Bid Protest Procedures, 4 C.F.R. § 21.2(a) (1982), require that when a protest has been filed initially with a contracting agency, any subsequent protest to this Office must be filed within 10 working days after the protester receives notice of the contracting agency's initial adverse action. "Filed" under this section means receipt. 4 C.F.R. § 21.2(b)(3). In this case, although Exact learned of GSA's denial of its protest on February 7, it

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did not mail its protest to us until 10 working days thereafter had elapsed, and we did not receive it until several days later. Accordingly, the protest is untimely.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel